



**Testimony of David P. McClure
Before the US House of Representatives
Committee on Small Business
October 3, 2007**

Chairwoman Velazquez, and members of the Committee:

My name is David McClure, and I am president of the US Internet Industry Association, a trade association that for the past 15 years has served businesses engaged in Internet connectivity, online content and electronic commerce. Our members, the majority of which are small businesses, are concerned that without immediate action on the part of Congress they will be immediately subjected to multiple, discriminatory, retroactive and crippling taxes.

The impact of allowing the Internet Tax Non-Discrimination Act expire without extension would be felt specifically in three ways for small businesses:

- **An almost immediate loss of customers.** Internet connectivity is price elastic. That is, the higher the price the fewer people are interested in using it. Studies by Ernst & Young, but the University of Massachusetts and others have confirmed this elasticity, as does research by the Pew and Internet Life Project. If taxes are permitted that would raise the cost of basic Internet access by as much as 30 percent, the predominantly working families that are not on the Internet will not be able to afford to get there; and families that now have basic Internet access will no longer be able to afford it.
- **Loss of opportunities for survival and growth.** In today's economy, small businesses in America are able to compete globally due in part to our superior infrastructure – the Internet backbone, our rich diversity of broadband and the growing wireless networks spanning the far reaches of the nation. But the growth of this infrastructure depends on sustained and increasing levels of private investment – as much as \$1 trillion between

2015 and now alone. But if the tax moratorium is not extended, states and localities will take more than \$35 billion per year out of the economy. That's nearly 1/3 of the cost of national deployment of broadband that will be made unavailable for private investment – and that's not counting the additional costs of compliance.

- **The cost of compliance is a critical factor.** Remember that the current moratorium does not ban sales and use taxes. It bans multiple and discriminatory taxes – the type that target Internet transactions for higher taxes than their brick-and-mortar counterparts, and those that tax the same transactions in multiple ways. Ernst & Young has calculated that for companies selling nationally with collection responsibilities in 46 states, the compliance cost ranges from 14 percent of sales taxes collected for large retailers, to 48 percent for medium retailers and 87 percent for small retailers. The burden clearly would fall hardest on small businesses – those least able to staff and maintain large tax compliance and remittal departments.

The original Internet Tax Freedom Act was not, as some have retroactively suggested, an effort to give the states time to find better ways to tax the Internet. It was an alarmed and informed response to a significant pattern of abusive, punitive and destructive taxes passed by local authorities with little regard for how their actions would impact consumers, businesses, the economy or our national interests. It was Congress' way of putting an end to this tax abuse.

John Marshall, the US Supreme Court Justice who shaped much of our constitutional law, noted that “The power to tax involves the power to destroy; that the power to destroy may defeat...the power to create.” There is no clearer example of how abuse of this power, and its negative impact on creativity, than the imposition of multiple, discriminatory and predatory taxes on America's small businesses.